

## **Guidelines for Industry Sponsored Research and Service Agreements**

### **March 1, 2004**

CWRU encourages academic-industry partnership through “business friendly” agreements that recognize and protect the contributions of sponsors, while promoting the university’s research and academic mission and assuring compliance with applicable laws and regulations.

In this context, industry may provide funding for a range of projects at CWRU, either alone or in combination with government sources. Most of these projects fund university research or educational activities and are referred to as “sponsored research.” In some cases, private firms may offer funding in return for “service projects,” such as testing, evaluation, or development of a proprietary product.

Sponsored research projects generally explore, or seek to prove, ideas, concepts, methods, materials or other areas of inquiry in hopes of new invention or discovery. Because of their importance to the university’s ongoing or future research and its educational mission, as well as their potential economic value, CWRU protects its inventions and discoveries through patents and other intellectual property protections. Agreements covering sponsored research must include not only descriptions of the proposed project, payment terms, and protections against university liability, but also protections for the university’s preexisting intellectual property and intellectual property developed during the sponsored research.

While furthering university research and education goals, a sponsored research agreement should also recognize and protect important interests of the industry sponsor. If the sponsor makes significant intellectual contributions to the creation of an invention or discovery, it may be entitled to joint ownership of the resulting intellectual property. In addition, the agreement may permit the industry sponsor to use intellectual property from the project for its own internal research as well as providing an option to obtain a license (with fair royalty and other terms that comply with regulatory and tax law requirements) to use research results for its commercial purposes. Likewise, the sponsor’s rights to its pre-existing intellectual property rights should be protected.

Service projects differ from sponsored research in three important respects. First, in contrast to sponsored research, service projects may be considered commercial transactions—*i.e.* service for a fee—rather than tax exempt transactions to promote the university’s academic and research mission. As a result, service projects must be reviewed in advance under regulations governing commercial uses of tax exempt facilities and may also be subject to federal and state taxes. Second, service projects typically will not create new intellectual property requiring contractual protection. Of course, service projects still require contracts to describe the proposed project and its payment terms, to protect pre-existing intellectual property, to protect the university against liability, and to assure compliance with applicable laws and regulations. Third, industry payments for service projects must be based on fair market rates for the services, facilities, or deliverables in question, rather than based on reimbursement of project costs. In this context, accounting for costs of a service project is important, not for setting payment levels as in sponsored research, but as the basis for determining taxable income that may be generated by the project.

Recognizing the different nature and expectations associated with these two classes of projects (*i.e.*, research and service), CWRU has developed two form agreements to facilitate industry-sponsored projects, while addressing their different requirements. Both form agreements include terms to describe the proposed project and its payment terms, to protect the university against liability, to protect both parties’ pre-existing intellectual property, and to comply with laws and regulations. The agreements differ, however, in addressing newly created intellectual property and requirements related to their different purposes, accounting issues, and legal requirements

The following guidelines can be used in deciding which form agreement should be used for projects funded by industry:

**Sponsored Research Agreement**

[http://ora.ra.cwru.edu/ospa/forms/CASE\\_SPONSORED\\_RESEARCH\\_AGREEMENT\\_INDUSTRY.doc](http://ora.ra.cwru.edu/ospa/forms/CASE_SPONSORED_RESEARCH_AGREEMENT_INDUSTRY.doc)

- Project involves “basic research,” which has been defined by the government to mean “any original investigation for the advancement of scientific knowledge not having a specific commercial objective.”
- Faculty and/or staff likely to make a significant intellectual contribution that could lead to an invention or discovery
- Peer-reviewed publication likely
- Presentation at scientific meeting likely

**Sponsored Services Agreement:**

[http://ora.ra.cwru.edu/ospa/forms/sponsored\\_service\\_agreement\\_9-14-06.doc](http://ora.ra.cwru.edu/ospa/forms/sponsored_service_agreement_9-14-06.doc)

- Project does not involve basic research and it is unlikely that faculty and/or staff will make a significant intellectual contribution that could lead to an invention or discovery
- Faculty and/or staff are simply providing a service based on their expertise, e.g., testing, evaluation, interpretation, fabrication, use of specialized equipment
- Peer-reviewed publication unlikely
- Presentation at scientific meeting unlikely